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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,198	10/31/2001	Jeffrey Erdfarb	12186/1	4144

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EXAMINER

COHEN, AMY R

ART UNIT PAPER NUMBER

2859

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/003,198

Applicant(s)

ERDFARB, JEFFREY

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 2 February 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hellar (U. S. Patent No. 5,251,382).

Hellar teaches a measuring device (1) comprising: a first edge (2) defining a first region, said first region having a first set of indicia (8) corresponding to a first linear scale, wherein said first linear scale is actual (Col 2, lines 61-65); a second edge (3) defining a second region, said second region having a second set of indicia (9) corresponding to a second linear scale, wherein said second linear scale is non-actual (Col 2, lines 65-67), such that a non-actual dimension determined by the second edge in the second linear scale corresponds directly to an actual dimension determined by the first edge in the first linear scale (Col 2, lines 61-67, the second linear scale is half-scale).

Hellar teaches the device wherein said second linear scale is selected from the group of  $\frac{3}{4}"=1'$ ,  $\frac{1}{2}"=1'$ ,  $\frac{3}{8}"=1'$ ,  $\frac{1}{4}"=1'$ ,  $\frac{1}{8}"=1'$ ,  $\frac{1}{16}"=1'$ , 1:2, 1:4, 1:8, 1:10, and 1:100 (Col 2, line 61-Col 3, line 4, the second linear scale is half-scale).

Hellar teaches the device wherein each indicia of said first and second sets of indicia comprise a hash mark and a numeral (Fig. 2).

Hellar teaches the device wherein each of said first and second set of indicia have a starting point adjacent to each other (33 and Fig. 2).

Hellar teaches the device wherein at least one of said first and said second linear scales is in S. I. units (Col 2, lines 61-65, the metric scale may be chosen).

Hellar teaches the device wherein at least one of said first and said second linear scales is in U. S. units (Col 2, lines 61-65).

Hellar teaches the device comprising a third region disposed between said first region and said second region (Fig. 2), said third region having a third set of indicia corresponding to a third linear scale (scale in feet-as seen in Figs. 1 and 2 and reference number 21).

Hellar teaches the device wherein said third set of indicia extend through one of said first region to said first edge and said second region to said second edge (21 in Fig. 2).

3. Claims 1, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wall (U. S. Patent No. 5,230,158).

Wall teaches a measuring device (10) comprising: a first edge (11) defining a first region, said first region having a first set of indicia (20) corresponding to a first linear scale, wherein said first linear scale is actual (Col 4, lines 41-54); a second edge (12) defining a second region, said second region having a second set of indicia (30) corresponding to a second linear scale, wherein said second linear scale is non-actual, such that a non-actual dimension determined by the second edge in the second linear scale corresponds directly to an actual dimension determined by the first edge in the first linear scale (Col 4, lines 17-40 and 55-68).

Wall teaches the measuring device wherein said first region (11) is divided into at least a first portion and a second portion (Figs. 2, 3, 5, 6), wherein said first portion includes said first

set of indicia and said second portion includes a third set of indicia corresponding to a third linear scale (in Figs. 2, 3, 5, and 6 the arrow indicates a new set of numbers).

Wall teaches the measuring device wherein said second region (12) is divided into at least a first portion and a second portion (2-5), wherein said first portion includes said first set of indicia and said second portion includes a third set of indicia corresponding to a third linear scale (in Figs. 2-5 the arrow indicates a new set of numbers).

4. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Samuels (U. S. Patent No. 4,484,395).

Samuels teaches a method for measuring, comprising the steps of: positioning a measuring device on a drawing (Col 1, lines 5-24), said measuring device (10) having a first set of indicia (9) corresponding to a first linear scale and a second set of indicia (8) corresponding to a second linear scale, wherein said drawing has features sized in a second linear scale (Col 1, lines 5-24); using said second set of indicia, determining a first length of measurement of a feature on said drawing (Col 1, lines 5-24); using said first set of indicia, determining a second length measurement on an object, wherein said first length measurement and said second length measurement correspond to the same actual dimension (Col 7-17 and lines 40-57).

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3-12 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the second

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scale being non-actual and the first scale being actual) are not recited in the rejected claim(s) 12.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose measuring devices using different scales Tarver, III (U. S. Patent No. 6,530,159), Ueki (U. S. Patent No. 5,875,557), Jones (U. S. Patent No. 3,270,421), and May (U. S. Patent No. 184,537).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

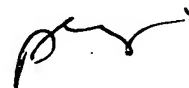
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (703) 305-4972. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

ARC  
April 8, 2003



Diego Gutierrez  
Supervisory Examiner  
Tech Center 2800